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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/427,260	10/25/1999	FARHAD KHOSRAVI	S63.2-13525-US01	2937

490 7590 11/14/2008
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EXAMINER

PELLEGRINO, BRIAN E

ART UNIT	PAPER NUMBER
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3738

MAIL DATE	DELIVERY MODE
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11/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/427,260	Applicant(s) KHOSRAVI ET AL.	
	Examiner Brian E. Pellegrino	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29,30,55,56,59,60 and 62-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29,30,55,56,59,60 and 62-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

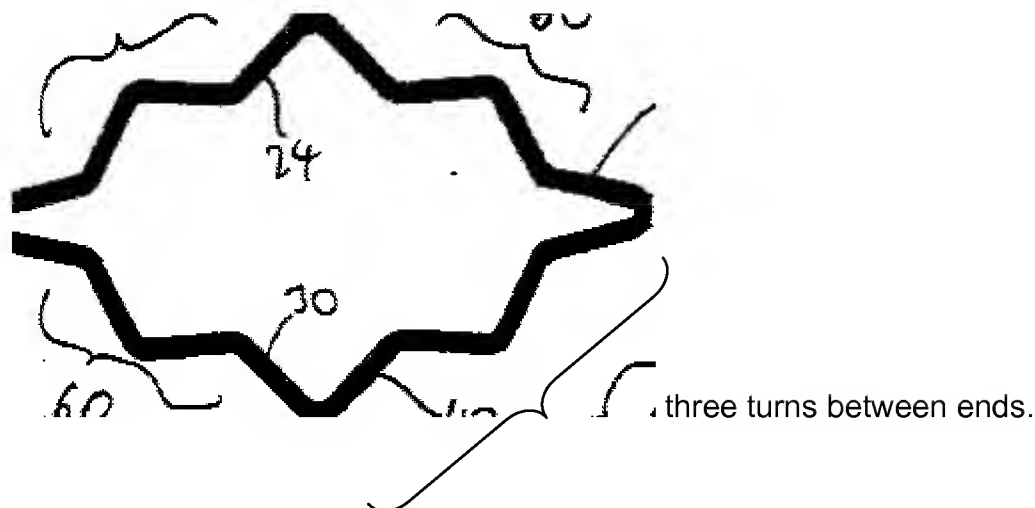
Response to Amendment

The Examiner does acknowledge that an amendment to the specification was submitted with the response of 8/12/08 and comments about a drawing submitted as a replacement for Fig. 9. However, the Examiner did not find any edited drawing submitted with the response. An opinion cannot be formed at this time by the Examiner with respect to the drawing and specification amendment at this time.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 29,30,55,56,59,60,62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (2001/47200) in view of Khosravi et al. (5824054). Figs. 15A,B show a stent formed of a plurality of stretchable elements defining a plurality of cells **22**. It can be seen that there are first and second wing-like elements extending generally parallel to the longitudinal axis and are connected to an adjacent longitudinal wing-like element at looped ends. It can also be seen there are a plurality of peripheral connectors intermediate two longitudinal members as seen in Fig. 15A. White discloses the stent is made of shape memory material such that it is plastically deformable, (paragraphs 59,63) and thus is unstretched at 25°C and expands at body temperature. White also shows (Fig. 10) the stents can have cells such that they have longitudinal elements that are curvilinear and have



The Examiner interprets point to point as ends of a longitudinal member. With respect to claim 59 White illustrates (Fig. 8) that the stent pattern can include cells with different areas. Figs. 16,17 show different patterns can be combined. Regarding claim 64, it can be seen that from Figs. 15A and 15B that the number of turns in a longitudinal element remain the same from unexpanded to the expanded state.

However, White et al. do not disclose the stent is formed of a coiled sheet or include locking elements. Khosravi et al. show (Fig. 6) a sheet stent **50** having a plurality of locking elements **51** capable of being engaged in openings in the stent when coiling the stent. Khosravi additionally teaches the stent pattern used should accommodate its intended use, col. 3, lines 35-41. It would have been obvious to one of ordinary skill in the art to use a coiled sheet to form the stent and include locking elements as taught by Khosravi et al. in the stent of White et al. such that it prevents collapse.

Response to Arguments

Applicant's arguments filed 8/12/08 have been fully considered but they are not persuasive. Applicant argues that the stent of White does not have second cells of an area or size that is larger than the size of the cells from the first set of cells. As mentioned above and to further support that White does show cells in a stent pattern with different areas or size in adjacent sections, see Figs. 6A,7,8,9,15B. Clearly, either in a horizontal dimension or if interpreted along a longitudinal dimension of the stent when viewing the patterns of the stent illustrated by White, it is evident that two adjacent rows show different cell sizes with one row being larger in area than the other. The difference in area between adjacent cells for Fig. 15B may not appear readily apparent, but it is clear upon a close review of the stent pattern that areas within the second cell are greater to some degree to accommodate the apex of the adjacent cell, thus forming a larger area. Additionally, White even discusses the cells being different in paragraph 55, such that there must be more area in one cell to accommodate the apex of the other cell in the contracted or unstretched state. Arguments are unconvincing.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Pellegrino whose telephone number is 571-272-4756. The examiner can normally be reached on M- F (9am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TC 3700

/Brian E Pellegrino/

Primary Examiner, Art Unit 3738